

39 Am. Jur. 2d Highways, Streets, and Bridges § 145

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Highways, Streets, and Bridges

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IX. Use of Way

A. Right to Use

§ 145. Right of all to use

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West's Key Number Digest

West's Key Number Digest, [Highways](#)  167

The public are entitled to a free passage along the highway.¹ The existence of a public highway creates a public easement of travel, which permits the general traveling public to use the highway at will.² All persons have an equal right to use highways for purposes of travel by proper means, and with due regard for the corresponding rights of others.³ The right to use them is not restricted to the citizens of the municipality⁴ or state.⁵

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Footnotes

¹ [County of Boone v. Reynolds](#), 549 S.W.3d 24 (Mo. Ct. App. W.D. 2018), reh'g and/or transfer denied, (May 1, 2018) and transfer denied, (July 3, 2018).

² [Town of Ridgefield v. Eppoliti Realty Co., Inc.](#), 71 Conn. App. 321, 801 A.2d 902 (2002). The “public highway” created by operation of law along every section line is more than a right-of-way over which a public highway may be established; it is a passage or road that every citizen has a right to use. [Douville v. Christensen](#), 2002 SD 33, 641 N.W.2d 651 (S.D. 2002).

³ [State v. Mayo](#), 106 Me. 62, 75 A. 295 (1909); [Omaha & Council Bluffs St. Ry. Co. v. City of Omaha](#), 114 Neb. 483, 208 N.W. 123 (1926); [Dent v. Oregon City](#), 106 Or. 122, 211 P. 909 (1923); [Bombard v. Newton](#), 94 Vt. 354, 111 A. 510, 11 A.L.R. 1402 (1920); [Thompson v. Smith](#), 155 Va. 367, 154 S.E. 579, 71 A.L.R. 604 (1930). A traveler is privileged to enter that part of the land in the possession of another upon which there is a public highway, to the extent his or her presence there is in the reasonable use of the highway. [Restatement Second, Torts](#) § 192.

⁴ [Ex parte Daniels](#), 183 Cal. 636, 192 P. 442, 21 A.L.R. 1172 (1920); [Wilmot v. City of Chicago](#), 328 Ill. 552, 160 N.E. 206, 62 A.L.R. 394 (1927); [New York State Public Employees Federation, AFL-CIO v. City of Albany](#), 269 A.D.2d 707, 703 N.Y.S.2d 573 (3d Dep't 2000); [Parker v. City of Silverton](#), 109 Or. 298, 220 P. 139, 31 A.L.R. 589 (1923); [Norfolk & P. Traction Co. v. City of Norfolk](#), 115 Va. 169, 78 S.E. 545 (1912); [Yarrow First Associates v. Town of Clyde Hill](#), 66 Wash. 2d 371, 403 P.2d 49 (1965).

The right to use of the highways rests with the whole people of the state. [Augusta v. Kwortnik](#), 161 A.D.3d 1401, 78 N.Y.S.3d 726 (3d Dep't 2018).

⁵

[County Com'rs of Charles County v. Stevens](#), 299 Md. 203, 473 A.2d 12 (1984).

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